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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 ABE WILLIAMS,

11 Plaintiff,

No. CIV S-02-0864 MCE GGH P

12 vs.

13 ARNOLD SCHWARZENEGGER, et al.,

14 Defendants.

ORDER

15 _____/
16 Plaintiff has several requests for extension of time pending before this court.
17 Plaintiff filed a motion to compel discovery on September 27, 2005 to which defendants filed an
18 opposition on October 24, 2005. Defendants filed a motion for summary judgment on October
19 14, 2005.

20 On October 31, 2005, plaintiff sought an extension of time to file an opposition to
21 defendants' October 14, 2005 motion for summary judgment. Also on October 31, 2005,
22 plaintiff asked the court to grant him an extension of time to complete discovery before the court
23 rules on defendants' motion for summary judgment. On November 4, 2005, plaintiff requested
24 an extension of time to file and serve a reply to defendants' opposition to plaintiff's motion to
25 compel discovery.

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1 Until the court can adjudicate plaintiff's motion to compel discovery, the
2 undersigned will be unable to determine whether the motion for summary judgment should be
3 continued, pursuant to Fed. R. Civ. P. 56(f),¹ on the ground that plaintiff has not yet been
4 provided with particular discovery responses or documents upon which his opposition could be
5 based. Therefore, in his opposition to the motion for summary judgment, plaintiff must at the
6 least set forth in an affidavit whether he is unable to present facts/evidence to oppose the
7 dispositive motion because he has been unable to receive full discovery responses to date,
8 indicating specifically what information he believes he needs in order to do so. To the extent that
9 plaintiff is able to provide a substantive opposition, he must do so, because if the court
10 determines that the discovery responses at issue would not be material or relevant to plaintiff's
11 opposition, the motion for summary judgment will not be continued.

12 Accordingly, IT IS ORDERED that:

13 1. Plaintiff's October 31, 2005 request for an extension of time to file an
14 opposition to defendants' October 14, 2005 motion for summary judgment is granted, and
15 plaintiff has thirty days from the filed date of this order to file and serve his opposition; any reply
16 by defendants is due seven days thereafter;

17 2. Plaintiff's October 31, 2005 request for an extension of time to complete
18 discovery prior to this court's ruling on the motion for summary judgment is denied without
19 prejudice; the court will not reach the dispositive motion until adjudication of plaintiff's motion
20 to compel; and

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26 ¹ Although plaintiff does not specifically cite the applicable rule, plaintiff appears to be attempting to invoke the provisions of Fed. R. Civ. P. 56(f).

1 3. Plaintiff's November 4, 2005 request for an extension of time to file and serve
2 a reply to defendants' October 24, 2005 opposition to plaintiff's September 27, 2005 motion to
3 compel discovery is granted, and plaintiff has until November 30, 2005, as requested, to file a
4 reply.

5 DATED: 11/16/05

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7 /s/ Gregory G. Hollows

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GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

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